MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2017/2018

UAL 2612 – ADMINISTRATIVE LAW

(All Sections / Groups)

31 MAY 2018

Reading Time : 9.00 am – 9.15 am
(15 Minutes)
Answering Time: 9.15 am – 12.15 pm
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Answer **One Question in PART A** and **ALL questions in PART B**. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall a CLEAN and ORIGINAL copy of:

   i) Rules of Court 2012

   Students are not allowed to lend or borrow statutes(s) during the Examination.

5. Please write your answers in the Answer Booklet provided.

PART A (CHOOSE QUESTION ONE OR TWO QUESTION)

QUESTION 1

Sumo was arrested because he was in possession of materials that criticise the government of the day and discourage citizens from voting in its favour. A neighbour informed the police of Sumo`s possession and he was taken to the police station where he was questioned. The police officer informed him that he will be detained until the department could be assured that he was not a threat to the society. Sumo was further informed by the investigating police officer that the Minister of Home Affairs had the ultimate power to determine Sumo`s release. He was told that his detention was based on s 207 of the Government`s Protection Act 2016 which reads as follows:

If the Minister is satisfied that the detention of any person is necessary with a view to preventing him from acting in any manner prejudicial to the government of Malaysia or any part thereof or to the maintenance of essential services therein or to the economic life thereof, he may make an order (hereinafter referred to as a detention order) directing that that person be detained for any period not exceeding two years

In addition to that, Sumo was told that he has no legal avenue to avoid the detention, since section 207 (1) (ee) of the Act makes the decision final. The said section states as follows:

S207 (1) (ee) There shall be no judicial review in any court of, and no court shall have or exercise any jurisdiction in respect of, any act done or decision made by the Yang di-Pertuan Agong or the Minister in the exercise of their discretionary power in accordance with this Act, save in regard to any question on compliance with any procedural requirement in this Act governing such act or decision.

Apply the fundamental principles relating to judicial review and advise Sumo as to his rights.

(Total: 25 marks)

QUESTION 2

Satura and Russel are working for a company call Mountain Rangers Sdn. Bhd. They agreed to enter into an agreement to buy a van and it was agreed that Russel pays the deposit for the purchase. However, later he decided that he did not need the van. He communicated his decision to Satura. Satura however, ridiculed him and they got into a fight at their work place, As a result of the fight, both of them were injured. Their colleagues managed to stop them and the company secretary reported the incident to the Board of Directors of the company.

Continued...

Three weeks later, a domestic inquiry was held and only Satura was asked to attend the inquiry. Following the inquiry, Russel received a letter which stated that he was been terminated from his work. He has also come to know that Satura was given only a stern warning and was allowed to continue working. Russel seeks your advice.

Apply the fundamental principles established in *Othman bin Ali v Telekom Malaysia Bhd.* [2004] 3 AMR 227 and advise Russel.

(Total: 25 marks)

PART B (ANSWER ALL QUESTIONS)

QUESTION 3

State the brief facts of *YB Khalid Abdul Samad v Majlis Agama Islam Selangor* [2016] 1 LNS and discuss the legal implications of granting the three remedies.

(Total: 25 marks)

QUESTION 4

Mr. Yamiko a Japanese marine officer has been residing in Malaysia for more than twenty years. Recently, he was informed by an officer from the immigration department that his visa will no longer be renewed and he has to leave the country immediately. Mr. Yamiko attempted to explain to the officer that his family has been living in Malaysia for many years. He also tried to state that his children are working and studying in Malaysia and that his father is an aged person, living in a home for the elderly in Seremban.

The decision of the Immigration Department has caused Mr. Yamiko a great amount of distress. He seeks your advice. Solve his legal problem based on administrative law.

(Total: 25 marks)

QUESTION 5

i) Based on the case, *Subramaniam Vythiligam v Human Rights Commission* [2003] 6 CLJ 175, explain in your own words if the Human Rights Commission (*Suhakam*) had correctly exercised its powers under the Act to promote human rights.

(12.5 marks))

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ii) By referring to relevant authorities, explain when a government body could be made liable under the law of torts for its wrongful acts.

(12.5 marks)

(Total: 25 marks)

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